

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE CHETRIT GROUP and JOSEPH CHETRIT,

Plaintiffs,

- V. -

LABORERS LOCAL UNION 79, KENNETH  
BRANCACCIO, in his capacity as President of  
Laborers' Local Union 79, et al.,

Defendants.

Case No. 07 CIV 8653 (GBD)

**NOTICE OF MOTION TO DISMISS BY  
DEFENDANTS LABORERS' LOCAL UNION 79 AND KENNETH BRANCACCIO**

PLEASE TAKE NOTICE that pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Laborers' Local Union 79 and Kenneth Brancaccio (collectively, the "Defendants"), hereby move this Court to dismiss Counts Three through Eight of the First Amended Complaint in the above-captioned case.

This motion is based upon Defendants' Memorandum of Law, and exhibit thereto, submitted herewith.

Pursuant to Local Rule 6.1(b), any opposition to this motion shall be served by December 21, 2007.

Date: December 7, 2007  
New York, New York

Respectfully submitted,

*/s/ Joseph J. Vitale*

---

Joseph J. Vitale (JJV 0415)  
COHEN, WEISS and SIMON LLP  
330 West 42nd Street  
New York, New York 10036  
(212) 356-0238

Tamir W. Rosenblum (TR 0895)  
Mason Tenders District Council  
of Greater New York  
520 Eighth Avenue, Suite 650  
New York, New York 10018  
(212) 452-9407

Counsel for Defendants  
Laborers' Local No. 79 and  
Kenneth Brancaccio

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Notice of Motion to Dismiss  
and accompanying memorandum of law to be served by first class mail, postage prepaid upon:

Kevin J. McGill, Esq.  
Clifton, Budd, & DeMaria, LLP  
420 Lexington Avenue, Suite 420  
New York, New York 10170

this 7th day of December 2007.

*/s/ Joseph J. Vitale*

---

Joseph J. Vitale